

In The United States District Court For Southern District of New York

Annamarie Trombetta,

Civil Action No. 18-cv-0993-RA-HBP

Plaintiff,
vs.

Norb Novocin, Marie Novocin,

Estate Auctions Inc.

and

WorthPoint Corporation

Defendants

**PLAINTIFF'S MOTION TO CORRECT OR MOTION TO
RECONSIDER JUDGE CAVE'S ORDER AND OPINION
ECF 509 BASED ON ERRORS AND OMISSIONS
OF ECF 330, ECF 338 - REQUESTS FOR AN EXTENSION
OF TIME FOR PLAINTIFF'S EXPERT WITNESS REPORTS
BEFORE PLAINTIFF'S DEC. 19, 2022 DEADLINE**

Pro se Plaintiff, respectfully sets forth either a Motion to Correct or a Motion to Reconsider Judge Cave's Opinion and Order in ECF 509, filed on June 22, 2023. Plaintiff brings to the Court's attention quintessential and chronological fact patterns, pertinent to Plaintiff's lawsuit. With all due respect, on the case docket are Plaintiff's filed requests for extensions for my expert witness reports prior to the Dec. 19, 2022 fact discovery and Plaintiff's expert witness reports deadline. Plaintiff's requests are docketed, yet respectively, omitted in Judge Cave's Order and Opinion, therefore there is a lack of judicial accuracy. Plaintiff's Motion is to request reconsideration of my Motion for acceptance of my expert witness reports and/or to permit my experts to give testimony at trial.

I. BACKGROUND

Plaintiff respectfully and immediately brings the Court's attention to Plaintiff's filed extension requests dated Dec. 8, 2022, in **ECF 330** and in **ECF 338** on Dec. 16, 2022 filed before Dec. 19, 2022. Twice Plaintiff requested an extension of time for the production of my expert witness reports. Plaintiff did so because I was not feeling well in the beginning of

Dec. and was also fearful my experts would not complete their reports in time. On Dec. 11, 2022 I was suddenly unable to stand up due to the flu. Plaintiff had to email Judge Cave on Dec. 11th, to request an immediate extension for my Proposed Second Amended Complaint due on Dec. 12, 2022. Judge Cave granted this extension until Dec. 19, 2022, which was the same day fact discovery and expert reports ended. In my June 1, 2023 filing in ECF 493 in **EXHIBIT #5** Plaintiff filed two exhibits titled "*Plaintiff's Illness Beginning Dec. 7, 2022 into late Jan. 2023*". The two documents in EXHIBIT #5 verify I was physically compromised for a few weeks. The FIRST exhibit in EX. #5 is Plaintiff's email to Judge Cave on Dec. 11, 2022, requesting an urgent extension for my Second Amended Complaint submission. The SECOND exhibit in EX. #5 is Plaintiff's doctor's visit appt. on Jan. 23, 2023 informing the Court of Plaintiff's chronic fatigue/ Covid like symptoms and ongoing ill health. I note my expert witness. Dr. Joseph Scelsa recommended I see my doctor to rule out any underlying conditions, when we spoke on his expert witness report.

Plaintiff brings to the Court's attention, page 4 which notes ECF 338 only regarding the end of fact discovery and not Plaintiff request for an extension. On page 14 of Judge Cave's Opinion and Order in CF 509 there is notation from the Nov. 23, 2022 Conference Call in ECF 328, on pages 41 and 42. I respectfully acknowledged Judge Cave reminded Plaintiff of the Rule 26 (a) (2) standard during the call. The purpose my Motion, however is for the Plaintiff to convey and note to the Court' my request to Judge Cave on page 64 asking to make an application to extend time for my expert witnesses to complete their reports. My request was made during the same Nov. 23, 2022 Conference call For the Court's convenience I included an insert of from Judge Cave's ECF 509 of Rule 26 excerpt below Underneath, the next page I inserted page 64 from the Nov 23, 2022 Conference call transcript. Plaintiff's request to

Judge Cave to make an application for an extension for my expert witness reports. Judge Cave granted permission for my application. To be clear, Plaintiff understands that granting an application for an extension does not grant the extension for my expert witnesses.

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just under one month left before the December 19, 2022 deadline—the Court also advised Ms. Trombetta of her obligations under Rule 26(a)(2), with which she “need[ed] to comply . . . even though [she is] a pro se plaintiff.” (ECF No. 328 at 41–42). When the Court instructed her that “[j]ust forwarding their resumes is not sufficient,” Ms. Trombetta acknowledged that she “[u]nderstood,” and neither requested an extension of the December 19, 2022 deadline nor gave any indication that she might not meet it due to her experts’ unavailability or for any other reason. (Id. at 42).

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**JUDGE CAVE’S
JUNE 22, 2023
OPINION AND
ORDER .**

**PAGE 14 FROM
ECF 509 RE:
RULE 26(a) (2)**

**BELOW IS THE NOV. 23, 2022 CONFERENCE CALL TRANSCRIPT PAGE 64
PLAINTIFF’S INQUIRY FOR EXTENSIONS FOR EXPERT WITNESSES REPORTS**

Trombetta v Novocin 11-23-22(2781737... Download Print Save to OneDrive Show email

1 64

2 defendants to please order a transcript of today’s

3 conference. Ms. Trombetta, is there anything else you

4 wanted to raise today?

5 THE PLAINTIFF: It has been a full day. So

6 because I’m dealing with other people, meaning the

7 expert witnesses, and we’re approaching the holiday

8 season, if for some reason they cannot submit a report

9 by December 12th, what --

10 THE COURT: You need to make --

11 THE PLAINTIFF: Can I ask for an extension for

12 them?

13 THE COURT: Yes.

BELOW IS THE NOV.23, 2022 CONFERENCE CALL FILING IN ECF 328

328 12/08/2022 TRANSCRIPT of Proceedings re: REMOTE CONFERENCE held on 11/23/2022 before Magistrate Judge Sarah L. Cave. Court Reporter/Transcriber: Carole Ludwig, (212) 420-0771. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/29/2022. Redacted Transcript Deadline set for 1/9/2023. Release of Transcript Restriction set for 3/8/2023.

BELOW IS ECF 330 PLAINTIFF'S REQUEST FOR AN EXTENSION OF TIME TO FILE MY EXPERT REPORTS ON DEC. 8, 2022 ECF 330 —

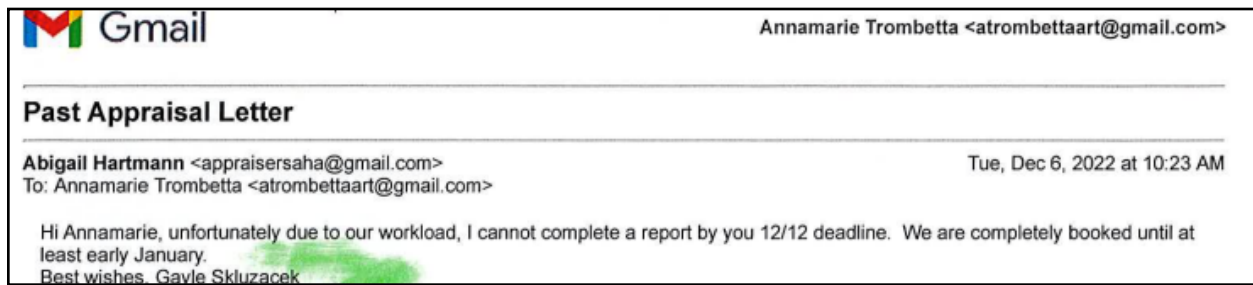
330 12/08/2022 LETTER addressed to Magistrate Judge Sarah L. Cave from A. Trombetta dated 12/8/22 re: APPLICATION TO THE COURT FOR AN EXTENSION FOR EXPERT WITNESS REPORTS. Document filed by Annamarie Trombetta.

1 Attachment ▼

In ECF 330 I filed my extension request AFTER I read the Nov. 23, 2022 transcript . I included emails from Gayle Skluzacek and to Dr. Scelsa . The same emails in ECF 330, ECF 338 is also in ECF 493 filed on June 1, 2023. Plaintiff filed page 64 from the Nov. 23, 2022 transcript in ECF 330 to remind Judge Cave of Plaintiff request for permission to make an application to the Court for a possible extension for my expert witnesses. Plaintiff asks the Court to review EXHIBITS #1 and #2 which are Plaintiff's emails to and from Ms. Skulzacek and Dr. Secelsa concerning the Rule 26 standard for their reports.

338 12/16/2022 LETTER addressed to Magistrate Judge Sarah L. Cave from A. Trombetta, dated 12/16/22 re: "PLAINTIFF'S FACT DISCOVERY STATUS LETTER & EXPERT WITNESS REPORT"- Plaintiff informs the Court regarding my Discovery status, and that it was delayed. Due to some minor yet significant issues a follow-up phone meeting to correct and reorganize Plaintiff's documents was scheduled Friday morning 12/16/22 which concluded around noon. All of the plaintiff's submitted Fact Discovery are soundly resolved etc. Document filed by Annamarie Trombetta.

1 Attachment ▼



Plaintiff summarizes to the Court the root cause of Plaintiff's Motion and the root cause for the delay in the timely production of my expert witness reports by Gayle Skluzacek, Art Appraiser and Dr. Joseph Scelsa Founder/ Director /Curator of the ItalianAmerican Museum . Plaintiff reiterates and acknowledged on Nov. 23, 2022 I was informed by Judge Cave about the Rule 26 requirements in Judge Cave's Order and Opinion on page 14 as she wrote:

" When the Court instructed her that "[j]ust forwarding their resumes is not sufficient," Ms. Trombetta acknowledged that she "[u]nderstood," and neither requested an extension of the December 19, 2022 deadline nor gave any indication that she might not meet it due to her experts' unavailability or for any other reason. (Id. at 42)."

Plaintiff asked for the extension to make sure my expert witness reports were properly done. The content from page 64 , duly written in the Nov. 23, 2022 Conference call transcript, was NOT acknowledged or noted in Judge Cave's Order and Opinion in ECF 509 on June, 22, 2023. In like fashion Judge Cave did not acknowledge Plaintiff's Dec. 8th ECF 330 . 4 My Dec. 16, 2020 ECF 338 is noted on page 4 however nothing is mentioned about my extension request I made both requests of the Court before the Dec. 19, 2022. Plaintiff current Motion is to respectfully make the Honorable Chief Judge Swain aware of Plaintiff's documented efforts to comply and follow the Rule 26.

Plaintiff's Motion is to bring attention to chronological facts and to asks Chief Judge Swain to review my Court filings ECF 330 and ECF 338 in tandem with Plaintiff's request for reconsider of my expert witnesses and this Motion . Plaintiff notes if I was not granted the

right to make an application for an extension of time to produce my expert witness reports in on Nov, 23, 2022, Plaintiff would have informed all my expert witnesses, the deadline was FIRM for Dec. 12, 2022, without any options for extensions. In Nov/ Dec. 2022, Plaintiff would have either produced the expert reports OR would have had to withdraw my expert witnesses. Plaintiff's incurred the deposit costs to produce the reports and at present cannot use the. Annexed is page 64, the Nov.23rd Conference call, application request for an extension of time granted by Judge Cave, filed ECF 330 as **EXHIBIT # 3**

PLAINTIFF'S SUDDEN ILLNESS FROM DEC 11, 2022 TILL EARLY FEB. 2023

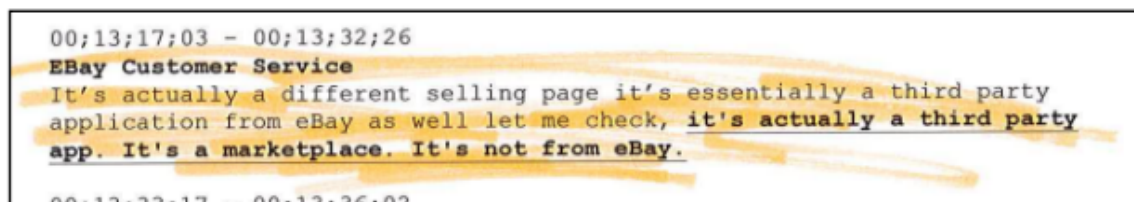
Plaintiff noted the other contributory factor in Plaintiff's delay to produce my expert witness reports was also due to the events on the Nov. 23, 2022 conference. Plaintiff filing letters to the Court for months, for EAI discovery requests. With Judge Cave's support noted in ECF 266, 272 and 278, EAI attorney Mr Duff failed to comply with Judge Cave's Order to produce discovery, mainly one complete sales receipt for the 1972 oil painting EAI claims they sold on eBay. SEE SEPT 28, 2022 email in **EXHIBIT #4**. The April 27, 2022 EAI eBay receipt email allegedly for the 1972 sale, was cut off and missing vital information on the right side. After seven months, on Nov. 16 th and 17th , EAI produced two eBay receipts that were visually different from each other and from the April 27, 2022 first version.

During the Nov. 23, 2022 conference call Judge Cave granted Plaintiff's request from Estate Auctions Inc, to produce the native, electronic 2012 eBay sales receipt for the 1972 oil painting, in a digital PDF format. During the Conference call, WorthPoint's attorneys, not Mr. Duff, emailed Plaintiff what they titled "Source Information" missing the crucial, defining Header Information that states—the Sender—the Receiver—the Date—and the email addresses. WorthPoint's email had ambiguous coding. Plaintiff contacted my internet expert to decipher

the code. This resulted in an Affidavit by my expert witness Patrick O'Leary, filed in ECF 322 on Dec. 5, 2022. This immediate production of Mr. O'Leary affidavit prevented his production of his expert witness report. On Dec. 8, 2022, Plaintiff filed ECF 330. All three of my experts needed time to complete their reports especially Mr. O'Leary, due to writing his affidavit. Defendants willful creation of problems, distracted me from keeping on schedule. My stress resulted in ill health on Dec. 11, 2022 and also hindered my reports and delayed my filing of my Proposed Second Amended Complaint and also interrupting the Court schedule.

**CHRONOLOGICAL FACT PATTERNS IN 2015—1972 post on eBay or WorthPoint's website
IMPORTANCE OF THE DOCUMENTED UNDEFINED EBAY SALE NOTED IN 2015**

Plaintiff brings to the Court's attention the pertinent chronological facts prior to commencing this lawsuit. These crucial facts pertain to the 2015 eBay phone transcript that has been filed in my Summary Judgement submissions. Plaintiff's filed the eBay phone transcript on June 1, 2023. as **EXHIBIT # 7 in ECF 493** to Judge Cave. Plaintiff reiterates to the Court, in late 2015 Plaintiff phoned eBay and requested the removal of the alleged 2012 eBay sale. In 2015, I spoke with four a eBay agents about the 1972 painting eBay sale and internet post. eBay agent named Jamie informed me the webpage was produced by a third party app and **not by eBay.** Inserted below from the eBay transcript. a quote by eBay agent named Jamie from page 7. The same eBay agent, Jamie also confirmed the false 1972 oil painting post was not on eBay's website.



EBay agent gave me WorthPoint's contact phone number to remove the 1972 post.

SEE insert below with WorthPoint phone # 877 481- 5750 on page 9 in eBay phone Transcript.

On page 20 of the eBay transcript, another eBay agent named Archer from the eBay's Listing Dept. stated that **eBay requires all copyrighted items sold on eBay must be listed by the seller.**

8 of 32

00;15;36;21 - 00;15;45;22
Jamie eBay Customer Service
 Okay. The phone number for WorthPoint contact information. Customer service will be 877 481-5750.

00;15;46;12 - 00;15;56;24
Annamarie Trombetta
 Well, I did call them and they said that I had to get in touch with eBay because if they don't sell anything, they're a database. So I keep going back and forth.

00;15;59;16 - 00;16;10;12
Jamie eBay Customer Service
 Let me try see at our end to maybe they provided information like a third party app to give it to me tried to go ahead and provide that information here on eBay.
 And do it again. OK,

Annamarie Trombetta
 OK. Because I still don't understand what you mean by third party. You're saying that it is the responsibility of WorthPoint to have that information.

Jamie eBay Customer Service
 Yes Maam

In 2015, in the eBay transcript, on pages 20 and 21, eBay's agent named Archer from eBay's Listing Dept. informed Plaintiff that the 1972 eBay sale was **"Undefined"** He informed me, if I

00;42;01;01 - 00;42;06;26
Archer
 And if they help you further, I can't pull up any correct information associated with the sale now because it's UNDEFINED Nothing is showing up here ...Ah ..just the source.. that it's sold on eBay.

wanted the false 1972 post removed from the internet Plaintiff should contact WorthPoint. Archer affirmed **eBay did not have the right to remove the 1972 oil painting webpage from the internet.**

You know if you want this page to be removed you should contact WorthPoint it's on their Web site. The page is associated with this but we Don't have the right to remove this page

00;42;47;18 - 00;42;54;25
Annamarie Trombetta
 You don't have the right to remove the page.

In 2015, Plaintiff was informed by eBay which is the company named as the selling platform for the 1972 oil painting, that the 1972 oil painting was UNDEFINED. Since 2015, proof of the eBay sale was always UNDEFINED. At present, since the name/ identity of the

artist who painted the alleged 1972 oil painting is also UNDEFINED, it is my belief due to the absence of the EAI electronic email from 2012 that the sale of the 1972 painting is undefined. The importance of bringing the 2015 undefined eBay sale to the Court's attention is relevant to the failure of EAI to produce the native electronic email for the 2012 eBay oil painting sale. The electronic email cannot be changed or altered from its authentic composition. EAI produced in EAI00073 to EAI00078 a cut off printed out that is missing pieces of information.

**A. Plaintiff's Response to Page 3 Judge Cave's Opinion and Order
Ms. Trombetta's Claims**

Plaintiff noted in Judge Abrams ECF 187 filed on Dec. 21, 2021 the statutes of limitation for the separate accrual rule for successive infringements is applicable to all Plaintiff claims, for Copyright, VARA and DMCA infringements. The damages for Copyright are the same for VARA. The statutory damages range from \$750 to \$30,000 per work "and if the court finds that the violation of VARA was committed willfully, it can increase the award per infringements. Plaintiff notes and assert the DMCA infringements are applicable to both Defendants. In Marie Novocin's deposition on page 43 she said there was another party that photographed the 1972 oil painting, and stated his name was "Mike Miller" In the deposition of Norb Novocin he specifically said he had photos taken of the 1972 oil painting. These relevant facts prove EAI provided the photo to WorthPoint Corp who then adhered their false CMI.

As Judge Cave's order stated on Dec.19 2022, Plaintiff filed a Proposed Amended Complaint to include IIED, Tort and Fraud. Plaintiff added claims since Defendants chose to continue litigation and rejected my settlement attempt on Nov. 23, 2023. I filed my Proposed Second Amended Complaint against Estate Auctions Inc and WorthPoint for these reasons:

- 1) Estate Auctions Inc failed to produce ONE full receipt for sale of the 2012 eBay sale receipt
In time EAI produce four alterations of the one eBay receipt with varied icons.
- 2) Both WorthPoint and EAI's failed to identity the artist who painted the 1972 oil painting.

3) Both WorthPoint and EAI failed to produce any meta data for the 1972 internet webpage.

Plaintiff notes in ECF 348, filed on Dec. 27, 2022, Plaintiff detailed eight counts of Fraud for Estate Auctions Inc from page 13 to page 43. Plaintiff detailed in ECF 348, seven counts of Fraud against WorthPoint on page 51 72. The fraud charge for TANGIBLE CONVERSION (BIOGRAPHY IN MY CATALOG) TAKING AND MISAPPROPRIATION PLAINTIFF BIOGRAPHY is Count V for WorthPoint and noted as Count VIII for Estate Auctions Inc.

B. Plaintiff's Response to Fact Discovery (on Page 4 of Judge Cave's Opinion and Order)

Plaintiff brings to the Court's attention Judge Cave's notations regarding Fact Discovery delays. The case began with ECF 195 which is the Case Management schedule. I note that in ECF 195 all depositions were to be completed by May 26, 2022. Plaintiff brings to the Courts attention there was a Conference call on April 26, 2022 in ECF 223. As a result EAI produced on April 27, 2022 the first eBay email for the 1972 oil painting that was a cut off on the right side omitting information. On May 18, 2022, in ECF 225 Plaintiff filed a Motion for Leave to Amend my Complaint to include Fraud and Permanent Injunctive Relief based on the misspelled red pencil signature and the two week delayed production of the cut off eBay sales receipt produced April 27, 2022 (due on April 8th) and the complete absence of any electronic meta data for the online ad for the 1972 oil painting webpage. The absence of the 12 photos of oil painting in the 1972 ad was noted. Worth Point's evidence had clear contradictions. WorthPoint's attorneys interrogatory responses conveyed they did not know when the 1972 post was ingested onto WorthPoint's website. At the same time WorthPoint produced evidence with the date of March 5, 2013(WP 130) for the 1972 posting. In June 2022, during a Conference call Plaintiff was informed by Judge Cave I needed to name all my witnesses for the trial. As a Pro Se litigant I was unaware that by naming witnesses it would subject each one to being deposed.

Plaintiff had to contact each listed witness and inform them. Four were removed.

Plaintiff notes a significant factor caused by WorthPoint that contributed to preventing the completion of my expert witness reports. On July 8, 2022 WorthPoint requested a discovery extension and cancelled my deposition in **ECF 252**. It was rescheduled seven weeks later, on August 30, 2022. On this date EAI attorney gave a date of Sept. 21, 2022 for deposition of Marie and Norb Novocin, a period of three weeks later. On August 30, 2022. Plaintiff was improperly served a summons and complaint from another State. In ECF **268** on August 24, 2022, it was WorthPoint who requested the extension for discovery, not the Plaintiff.

PLAINTIFF'S PRODUCTION OF DOCUMENTS DEMANDED BY DEFENDANTS IN IN SEPTEMBER INTO OCTOBER AND INTO 2022

In Judge Cave's Opinion and Order on the bottom of page 11 Judge Cave is not aware of Plaintiff's overwhelming tasks set forth by WorthPoint. When WorthPoint postponed the July deposition until the end of August and the WorthPoint improperly served Plaintiff a summons and complaint, Plaintiff was immediately burdened to answer the summons in Georgia to correct and respond to Plaintiff's deposition. In Sept and Oct 2022 Defendants demands caused non stop unending work for the Plaintiff. I had multiple responses and demands all due at the same time. Despite Defendants' demands, Plaintiff was in contact with still in contact with my three expert witnesses. I met with Dr. Scelsa in person at the end of Sept. 2022. After our meeting Dr. Scelsa recommended an attorney to contact to assist me to try to settle this lawsuit. **EXHIBIT #6 Nov. 16 2022 email to Dr, Scelsa and attorney**

SEPTEMBER DEMANDS LEADING TO DELAY FOR EXPERT WITNESS REPORTS

Plaintiff's list of Defendants timed legal demands and productions for **Sept. 2022** are below:

1-FIRST— Plaintiff was forced to write to the Court. noted in **ECF 280** (Judicial Intervention) to obtain a copy of my August 30th deposition produced after Sept.20, 2022 . **Annexed in**

EXHIBIT #7 Sept 20, 2022 email by WP attorney Ms. Haimson. All responses were expected to be corrected by Oct. 20, 2022. WorthPoint failed to include exhibits with my deposition which took further time to obtain, and respond to WorthPoint's exhibit questions.

2-SECOND —On Sept.22, 2022 WorthPoint emailed Plaintiff a four page list of RULE 37 demands due no later than Oct 6, 2022. **EXHIBIT # 7 Rule 37 Demands due Oct.6, 2020.**

3- THIRD —Estate Auctions Inc's attorney failed to produce discovery and on Sept. 22nd and on Sept 28th Plaintiff emailed Mr. Duff regarding my discovery demands. to include a full uncut eBay sales receipt . Proof of payment f where the red pencil signature is located on the stretcher. **SEE EXHIBIT # 4 Email from Plaintiff to Mr. Duff on Sept. 28, 2022**

4- FOURTH The lawsuit in the State of Georgia for IIED was due at the end of Sept. 2022.

5-FIFTH For months I received emails from WorthPoints attorneys without any problems. On **Sept. 26, 2022** WorthPoint's attorney Nicole Haimson and Jana Farmer on sent emails to me the same on the same day Each one had warning signs. Upon clicking their emails, Plaintiff Gmail account froze. In addition I was unable to Shut Off my computer. An emergency walk in appt at the Apple store to reset my computer was needed . Plaintiff opened up a new email account using the Outlook.-Microsoft email platform. **EXHIBIT #8 WorthPoint Attorneys Dangerous warning Gmails.** This email problem is noted in ECF 509 Judge Cave's Opinion and Order on page 11 under " Ms. Trombetta 's explanation for delays". Judge Cave stated it caused me emotional trauma. In truth, the way s WorthPoint's process serves improperly served me a summons and complaint on August 30, 2022 caused Plaintiff emotional trauma. The computer problem caused a great deal of distress. since I have one computer and the lawsuit with all my files is on it. Not having access to my computer while WorthPoint's demanded immediate responses created more work and stress due to the need to solve my problem immediately. On Sept. 28, 2022 in **ECF 288**, Plaintiff wrote to the Court regarding this problems to notify the Court of Plaintiff

potential delayed responses. due to the fact that my computer did not work.

OCTOBER DEMANDS LEADING TO DELAY OF EXPERT WITNESS REPORTS

Plaintiff's list of Defendants timed legal demands and productions for **Oct. 2022** are below.

Plaintiff brings to the Courts attention in **ECF 291 on Oct. 7, 2022** Plaintiff was forced to ask for an extension from the Court. This was due to all of WorthPoint demands and EAI withholding my requests for discovery.

1-FIRST - In Oct. 2022 Plaintiff's Fact Witness were deposed on three separate dates. Oct. 6th, Oct. 7th and Oct. 17, 2022 and required Plaintiff to be present and informed.

2-SECOND- Defendants did not serve my Fact witness a summons for the deposition and this created problems for me with my Fact witness. In addition, Defendants served a summons to be deposed to one of my witnesses that was removed, at his home address, Plaintiff never furnished Defendants his home address. Plaintiff had to write and call my witnesses to quell these problems. SEE **ECF 285, 295, 298** Plaintiff noted in **ECF 301** due to my deposition responses I asked for a fact discovery extension.

3- THIRD On Oct. 13, 2022 Plaintiff requested the Court to order Defendants to redact the names of Plaintiff's witnesses contact information in ECF 295 On **Oct. 14, 2022 in ECF 297** Plaintiff wrote to the Court regarding WorthPoint mistake in not serving the summons for the deposition for Plaintiff's Fact Witness Vanessa Ploski. On Oct. 28, 2022 Plaintiff held a Meet and Confer to make sure discovery was checked and complete On the same day, Oct. 28, 2020. WorthPoint's attorney requested Plaintiff to produce the native electronic email from **EXHIBIT # 9** Plaintiff to Will Seippel dated **Feb. 20, 2022 in a digital PDF formatted file**. Plaintiff notes to the Court I produced a print out version and the electronic version of the Feb 20, 2016 email to Will Seippel. On Nov. 23, 2022, during the Conference call Defendants requested Judge Cave to order Plaintiff to produced the same Feb 20, 2016 email in an electronic format

that I produced on Oct. 28, 2022. Plaintiff asks the Court to the view Judge Cave's Order ECF 391. Defendants requested the same Feb. 20, 2016 electronic email that Plaintiff emailed to Defendants on Oct. 28, 2022. See EX.#9. Defendants know what the electronic email contains.

records, and sales records from 2018 through 2021, are DENIED WITHOUT PREJUDICE. 5. Ms. Trombetta shall produce to Defendants, the following: a. the February 20, 2016 email and attachments in native electronic format; and b. all communications Ms. Trombetta has had with any non-party witnesses relevant to the claims or defenses in this action. 6. The parties

On Nov. 23, 2022 Plaintiff requested EAI Defendants to produce an electronic email for the EAI eBay 2012 sales receipt for the 1972 oil painting. Defendants FAILED to email the 2012 electronic email to Plaintiff as Judge Cave ordered. Defendants' gamesmanship cost the Plaintiff \$6500 and also time diverted away from my experts blocking the completion of my witness reports, all due to the failure to produce one eBay electronic email for the 1972 sale.

4- FOURTH On Oct. 20, 2022, Plaintiff personally dropped off my deposition responses at the WorthPoint's law firms' offices and had to request an extension from the Court ECF 301. WorthPoint did not pay to produce the deposition sooner. yet I requested to write to the Court to have WorthPoint produce it to me and I had to ask the Court for an extension to respond.

5- FIFTH On Oct. 29 thru Oct. 30th Plaintiff emailed all Rule 37 responses to Defendants.

6- SIXTH On Oct. 31, 2022, Plaintiff wrote three emails to all Defendants to check in and confirm the completion of Discovery. Despite Plaintiff's efforts to end discovery, WorthPoint filed a letter to the Court requesting an extension.ECF 306. In ECF 307 filed on Oct. 31, 2022, Plaintiff notes my attempts to contact the attorney three times on Oct. 31, 2022. I note that I asked attorney Anderson Duff for a full copy of the 2012 eBay receipt in ECF 307, Mr. Duff responded on Oct. 31, 2022 *"I will pass along a new copy of the single email referenced in your*

email below as soon as I receive it from my clients.”

7- SEVENTH On October 31, 2022 WorthPoint’s lawyer in Georgia filed an early entry for a Motion for Default Judgement against Plaintiff. had a limited amount of time to respond to a Court in another State. I also note the laws in Georgia are not the same as in New York. I have no business or professional ties, nor do I own property, I ever been in the state of Georgia.

NOVEMBER DEMANDS LEADING TO DELAY OF EXPERT WITNESS REPORTS

Plaintiff’s list of Defendants timed legal demands and productions for **Nov. 2022** are below.

1-FIRST - Nov. 2022 Plaintiff had to respond to the case in Georgia before Nov. 14, 2022.

2- SECOND- On Nov. 8, 2022 in ECF 310 WorthPoint falsely listed bates stamped documents stating that Plaintiff did not produce discovery documents which I produced and that WorthPoint’s attorneys had incorrect bates stamped Plaintiff has filed as **EXHIBIT #10 Plaintiff letter in ECF 310** as with WorthPoint’s list of requested bates stamped documents.

3-THIRD - Plaintiff had to keep emailing to EAI attorney Anderson Duff to obtain the 2012 eBay sales receipt for the 1972 oil painting email noted in my Oct. 31, 2022 letter to the Court. On Nov. 16, 2022 Mr. Duff produced a second copy of the eBay email sales receipt however this receipt was missing the bold YELLOW eBay icon bar that was in the first eBay receipt produced on April 27, 2022. The following day Plaintiff was emailed that Mr. Duff produced a copy of the eBay 1972 sales receipt email on Sept. 21, 2022 however, on Oct. 31, 2022 and Nov. 16, 2022 Mr. Duff failed ever mentioned the alleged Sept 21, 2022 xml to Plaintiff.

The Nov. 17, 2022 had the Yellow eBay icon bar and the Nov. 16, 2022 did not have the Yellow eBay icon bar. Since there were three varied eBay receipts, on Nov. 23, 2022 Plaintiff logically requested the native electronic Dec. 1, 2012 eBay email with the 1972 oil painting sales receipt Defendants email Plaintiff on Nov. 23, 2022 ambiguous coding and not the native electronic email. Plaintiff reminds the Court on Oct. 28, 2022 I emailed Defendants the native electronic

email for the Feb. 20, 2022 email I sent to Will Seippel. Defendant knew what the native electronic email looked like and willfully and knowing sent Plaintiff on Nov. 23, 2022 ambiguous coding, during the Conference call. Defendants willfully defied Judge Cave's direct order to produce my request for the EAI's electronic email for the eBay sale. On Nov. 23, 2022 Defendants falsely informed Judge Cave I did not produce the Feb. 20, 2016 electronic email I sent to them on Oct. 28, 2022. Defendants request is documented in Judge Cave's Order filed on Nov. 23, 2022 ECF 319 **EXHIBIT #11WP Feb. 20, 2016 electronic email.**

4-FOURTH - After the Nov. 23rd Call Plaintiff immediately emailed Dr. Scelsa and phoned Gayle Sklusacek informing both about the Dec. 12, 2022 deadline for reports. **EXHIBIT #12 Nov. 23, 2022 email to Dr. Scelsa regarding failed settlement talks and expert report.**

5- FIFTH- After Thanksgiving Plaintiff contacted internet expert Patrick O'Leary to decipher Defendants email coding resulting in an Affidavit filed on Dec. 5 2022 in ECF 322.

DECEMBER DEMANDS LEADING TO DELAY OF EXPERT WITNESS REPORTS

1-FIRST- On Dec. 8, 2022 after reading the Nov. 23rd transcript on page 64 Plaintiff made an application with the Court for an extension for expert witness reports for more time. Plaintiff was reliant on my experts to complete their reports. There were many date changes in this case.

2-SECOND- Plaintiff was not feeling well while I was finishing my Proposed Second Amended Complaint. On the weekend of Dec 10 and 11th, Plaintiff email Judge Cave, due to the inability to stand upright. Plaintiff phoned on Dec. 12, 2022 chambers requesting an extension

3-THIRD- On Dec. 14 to Dec 16 Plaintiff reviewed Fact Discovery with WorthPoint attorney Nicole Haimson to complete Fact Discovery.

4-FOURTH- On Dec. 16, 2022 Plaintiff wrote a second request for an extension of time for my expert witnesses and also confirmed Plaintiff's Fact Discovery closure noting the outstanding

request for the native electronic eBay email for the Dec. 1 2012 1972 painting sales receipt .

5-FIFTH- On Dec. 19, 2022 Plaintiff filed my Proposed Second Amended Complaint.

6-SIXTH- On Dec. 27, 2022 Plaintiff upon Judge Cave's Order filed re-filed both Defendants Proposed Second Amended Complaint in one submission

The above three months were detailed by the Plaintiff to address Judge Cave's Opinion and Order notation on Page 11 of ECF 509. Plaintiff witness qualified to meet the Rule 26 standard reports were noted in Sept. 2022. There reports were to be completed by Dec. 19, 2022. Due to the delays caused by the Defendants. I was not able oversee the completion of my reports.

C. Plaintiff's Response to Expert Discovery(on Page 5 of Judge Cave's Opinion and Order)

On Page 5 of Judge Cave's Judge Cave's Opinion and Order , Judge Cave notes the confirmation of Plaintiff's three expert witnesses. IT IS IMPERATIVE FOR THE COURT TO NOTE Judge Cave wrote "*On September 19, 2022, and again on September 28, 2022,* Defendants' counsel asked Ms. Trombetta to confirm whether she intended to proffer as *experts Dr. Scelsa, Mr. O'Leary, and Ms. Skluzacek, but Ms. Trombetta did not respond. (ECF Nos. 462; 462-7).*" I BRING TO THE COURT'S ATTENTION ON SEPT .26, 2022 as aforementioned Plaintiff clicked onto WorthPoint's two emails dated Sept. 26, 2022. Plaintiff's Gmail account were frozen. Moreover I was unable to Shut Off my computer. I had an emergency walk in appt at the Apple store to reset my computer. As a result, Plaintiff opened up a new email account using the OutLook.-Microsoft email platform. Plaintiff **DID RESPOND** to WorthPoint's attorneys verbally confirming my three expert witnesses. during the Zoom depositions for my fact witness Willie Chu and Scott Goodwillie

During the Nov. 23, 2022 Conference call, Plaintiff on Page 64 asked if I could make an application with the Court for an extension for my expert witnesses . On Page 65 Plaintiff proposed the idea for settlement talks. **SEE EXHIBIT #5 and EXHIBIT #9 Nov. 23, 2022 Conference Call Page 64 (Extension for Experts) and and Page 65 (Settlement Talks to End**

Lawsuit) Mr. Duff immediately rejected the offer to settlement as did WorthPoint's attorneys.

Plaintiff emphatically notes again the only time Plaintiff requested an extension for my expert witness reports was on Dec. 8th and Dec. 16, 2022. On the bottom of page 5, in ECF 509 Judge Cave noted Defendants have also notified Plaintiff of Rule 26 in ECF. 267 on August 23, 2022. f I informs the Court, Plaintiff's two expert's witnesses confirmed their involvement in Sept. 2022 The date listed in Judge Cave's Order lists ECF 267 is in August 2022 and at this time I had not interviewed Mr. O'Leary until the end of August, 2022. Dr. Scelsa was out of town in August 2022.

267	08/23/2022	LETTER MOTION for Extension of Time to Complete Discovery (non-party and expert discovery) addressed to Magistrate Judge Sarah L. Cave from Jana Slavina Farmer dated 08/23/2022. Document filed by WorthPoint Corporation.(Slavina Farmer, Jana)
266	08/22/2022	LETTER addressed to Magistrate Judge Sarah L. Cave from A. Trombetta, dated 8/22/22 re: "PLAINTIFF'S DISCOVERY REQUESTS & DEFICIENCIES FROM ESTATE AUCTIONS INC. & WORTHPOINT CORP." Document filed by Annamarie Trombetta.

Pro Se Plaintiff began the process of my expert witness reports, however as aforementioned from Sep. thru Dec. 2022 Defendants' demands for production of documents and correction responses for my August 30th deposition, conjoined with the case in Georgia required Court filings was in addition to appearing at four depositions etc. My time was limited and so was the time of my expert witnesses. In said months (Sept. to the end of Dec) Plaintiff was doing more work than is reasonably possible for one person at one time. In Dec. 2022, due to the ambiguous coding emailed by Defendants', Plaintiff and expert witness Patrick O'Leary filed on Dec. 5, 2022 an affidavit confirming all four eBay receipts had inconsistent information on each receipt. Furthermore, Defendants disobeyed a direct Order from Judge Cave and failed to produce the native (raw message) electronic email from eBay to Norb Novocin dated Dec. 1, 2012. Plaintiff reminds the Court, in the 2015 eBay phone call, Plaintiff confirmed with two eBay agents the webpage was added by a third party app and the eBay specialist named Archer said the 1972 oil painting was "Undefined".

PLAINTIFF'S SHOW OF GOOD CAUSE FOR DELAYED EXPERT REPORTS**ECF 493 EXHIBIT # 5 Plaintiff's Dec. 11 2022 email and Jan 2023 Doctor's appt.**

As aforementioned, from the time Plaintiff was deposed on August 30, straight through to mid Jan. Plaintiff was extremely burdened with the demands of this case and the case in Georgia. I remind the Court that I did not paint this oil and have produced 900 documents in my fact discovery and at least 160 more documents during the expert discovery period. The time sensitive production of Court filings and the overwhelming demands by Defendants came to a breaking point on Nov. 23, 2022 when WorthPoint and EAI deliberately emailed me ambiguous code. The failure by EAI to produce one electronic digital email confirmed the 2015 eBay "UNDEFINED" status and artist contributed to my fraud, tort and IIED claim in my SAC.

The additional work that was involved after Nov. 23, 2022 to understand what was sent usurped most of the time I had scheduled for expert witness reports. The stress and overwhelming workload caused Plaintiff to become suddenly incapacitated before and on Dec. 11, 2022. In Plaintiff June 1, 2023 filing in 493, Plaintiff submitted my Dec. 11, 2022 email to Judge Cave and in addition I submitted a letter confirming my doctor's appointment in Jan. 2023. Plaintiff requests the Court to note on May 30, 2023, Plaintiff filed ECF 487, 488, 489 and 490. In addition to the May 30th filing, Judge Cave ordered Plaintiff to write a fourth settlement letter. In my letter I stated I was open to any and all of Defendants counter offer to each of my claims. Both Defendants failed to make a counter offer yet both have once again reiterated they would be seeking attorneys fees after trial. SEE ECF 492. Once again, Plaintiff had nothing to do with the 1972 oil painting nor did I paint in oils until I was in high school as my infringed, self authored biography that both Defendants unethically used, documented since 2003. Both Defendants have admitted they did NOT read my biography which contributed to Plaintiff problem that began in 2015.

Plaintiff's most recent and sudden audio loss is all due to stress and a lack of sleep. I remind the Court, Plaintiff has been blocked from earning any income since Jan. 2022. This as well contributes to Plaintiff's levels of stress and concentration due to extreme fatigue. Once again, Plaintiff's requests for fact discovery were in order to complete the Defendants demands for

366 02/02/2023 ORDER granting [348] Motion to Amend/Correct [348] MOTION to Amend/Correct., [1] Complaint. The Clerk of Court is respectfully directed to (i) close ECF No. 348, and (ii) mail a copy of this Order to Ms. Trombetta at the address below. Mail To: Annamarie Trombetta, 175 East 96th Street, Apt 12R, New York, New York 10128. SO ORDERED. (Signed by Magistrate Judge Sarah L Cave on 2/2/23)

production of documents in Oct, 2022. The only time Plaintiff requested an extension for my expert witness reports on Dec. 8 ECF 330 after I filed my Dec. 5 2022 Affidavit in ECF 322.

D. Plaintiff's Response to Other Pending Motions (on Page 7 of Judge Cave's Opinion and Order)

Once again, Plaintiff brings attention to my doctors note which confirms I was not feeling well in Jan. 2023 which contributed the date of my expert witness reports in Feb. 2023. Plaintiff notes on Feb. 2, 2023 Judge Cave granted my Second Amended Complaint. The public case document did not state that my Proposed Amended Complaint would be the Operative Complaint in ECF 366. On Feb. 2, 2023 I immediately began writing my Second Amended Complaint reply. I also confirmed with two retired attorneys if I needed to write a response and both confirmed I should. On Feb.9, 2023, Plaintiff filed ECF 368 Plaintiff Second Amended Complaint. After filing ECF 368, the next day via the mail I received Judge Cave's full letter which turned ECF 348 into the Operative Complaint. On Feb. 10, 2023 in ECF 369 Plaintiff filed a letter regarding my filing in ECF 368. I explained due to the limited information on the public docket.—SEE INSERT ABOVE Plaintiff's filling of ECF 368 and ECF 369 contributes to the date of Dr. Scelsa Feb. 16, 2023 submission. Plaintiff was writing my SAC reply. I could not speak with Dr. Scelsa.

THREE RELEVANT CONTRIBUTIONS TO THE FEB. 2023 EXPERT REPORTS NOTED ON PAGE 11 AND 12 JUDGE CAVE'S ORDER AND OPINION IN ECF 509.

FIRST— From Dec 2022 c to Feb. 2023 Plaintiff was fatigue and Covid symptoms contributed to the delay of my expert witness reports. Proof of my ill health has been filed in ECF 493 EX #5

SECOND—On. Feb. 2, 2023, Judge Cave Granted Plaintiff's Proposed Amended Complaint.

Plaintiff immediately started to rewrite and edit down my Proposed SAC.

THIRD —On Feb. 3, 2023 in ECF 367 Judge Cave’s Order stated that the deadline to complete expert depositions was March 1, 2023. The Order also stated :

“Ms. Trombetta may request leave to call at trial witnesses whom she previously proposed as experts, but Defendants will have the right to oppose her request, and the ultimate determination of which witnesses Ms. Trombetta (and Defendants, for that matter), may call at trial, will be made by the Honorable Ronnie Abrams, who will preside over the trial.” ~ Judge Cave ECF 367

FOURTH —On Feb. 9, 2023 Plaintiff filed my Second Amended Complaint in ECF 368 as per required . The public docket only stated Plaintiff’s SAC was granted . I did not find out that that Judge Cave deemed ECF 348 as the Operative Complaint until I received by mail the Court Order. This is noted in ECF 369. Judge Cave filed ECF 370. Plaintiff diligence to write and complete my SAC filing delayed my expert reports I was busy writing and could not speak with my experts

FIFTH—To make sure I reached out to NYLAG and a retired lawyer to confirm if I could submit my expert witnesses reports and upon confirmation immediately contacted Dr. Scelsa and Gayle Skluzacek who was in the midst of a family medical emergency as documented on page 7 and 8. In summary, when Plaintiff’s Proposed Amended Complaint was granted to include IIED, Fraud and Tort, each claim would benefit with the testimony of my expert witnesses. **EXHIBIT # 12**

NYLAG- email on Expert Witness Reports due before March 1, 2023 Plaintiff submits additional credential **EXHIBIT # 13 Dr. Scelsa ’s award and ceremony for his civic and cultural contributions to the community with Mayor Eric Adams EXHIBIT #14 Gayle Skluzacek NYU Adjunct Professor course curriculum art appraisals. EXHIBIT #15 July 2023 Letter in Support by Dr. Scelsa for Plaintiff’s Motion to Change or Vacate expert witness reports**

E. Plaintiff’s Response to The Motion (on Page 7 of Judge Cave’s Opinion and Order)

Plaintiff notes that I filed on June 1, 2023 in **EXHIBIT #8** all of the dockets regarding the problems Plaintiff experienced with Defendants attorneys from Feb. 2022 onward.

The months of Plaintiff’s delayed production of my expert witness reports include ECF 274, ECF 278, ECF 280, ECF 288, ECF 289, ECF 292, ECF 307, , ECF 310, , ECF 312, , ECF 313, , ECF 316 and in Dec. , ECF 320, , ECF 322, , ECF 330, ECF 331, , ECF 332, , ECF 339, **SEE EX#8**

LEGAL STANDARD

A. Plaintiff's Response to Legal Standard on Page 9 of Judge Cave's Opinion and Order

Plaintiff, in the above preceding pages has organized the many reasons, obstacles, withholding of discovery, obligations and demands imposed by both Defendants as a means to substantially justify why my expert witness reports were delayed. Although Judge Cave's omission of Plaintiff's filed letters requesting an extension in ECF 330 and 338 where not considered in factoring her Order and Opinion, Plaintiff asserts that the need for my expert witnesses reports and testimony at trial are essential to my new claims for Intentional Infliction of Emotional Distress, Tort and Fraud which was further substantiated with the failure of Estate Auctions Inc to produce the electronic version of the 2012 eBay email sent to Norb Novocin. Plaintiff brings to the Court's attention that Judge Cave's decision to Grant my Second Amended Complaint did not occur until Feb.2 2023. This change in my case makes the importance of my expert witnesses greater and more relevant.

PATTERSON VS. BALSAMICO AND LAB CRAFTERS INC VS. FLOW SAFE INC.

FOUR FACTORS

Plaintiff begins by bringing to the Court's attention the case of Patterson vs Balsamico. In this case, the Plaintiff Michael Antonio Patterson **chose** to be employed as a Corrections Officer in Oneida County Sheriff's Dep. where he suffered IIED in a hostile work environment. Unlike this case, Plaintiff did not choose to be associated with the Defendants, on the contrary, Plaintiff is a sole proprietor and is self employed as a professional artist. I have absolutely no association with Defendants. I am being falsely and repeatedly associated with Defendants due to a "FAKE" online ad. The Defendant Norb Novocin, who wrote the ad and supplied a forged signature photo, admits he did not even read my biography nor did he ever visit the Plaintiff's website. Despite Defendants admissions, all attorneys refused to make any offer

to Plaintiff's most recent fourth, settlement, letter on May 16, 2023.

Plaintiff brings to the Court's attention the case of Lab Crafters vs Flow Safe Inc. in which the Plaintiff Lab Crafters alleges a "breach of contract" with Flow Safe Inc. In this case there was a business contract and a direct association between the Plaintiff and the Defendant. In my case, again, Plaintiff has no written or verbal contract with either Defendant. I informed both Defendants of their online false facts in writing prior to commencing litigation. Plaintiff understand the four factors and the case references that Judge Cave implemented as a means to preclude Plaintiff expert witness and their reports and or appearance at trial. Plaintiff brings to the Court's attention a quintessential vital factor —Plaintiff did not create the alleged" Man With Red Umbrella", alleged painted in 1972. Plaintiff has no prior business association to either Defendant Plaintiff case is therefore not the same as the legal standard of two cases in which their is relevancy to the intended business association present in these cases. Based on these facts —the Legal Standard is harshly, and unfairly applied to Plaintiff's case.

Plaintiff's response to First Factor :

(1) the party's explanation for the failure to comply with the disclosure requirement;

Plaintiff in the above pages 11 to 17 listed the delays I had in each month noted: In August/Sept. 2022 in EX#2 Plaintiff gave my expert witnesses the Rule 26 standard and the task to write a report. At the same time Defendants demands and problems forced me to request Court intervention even for WorthPoint's attorneys to produce my deposition.

In Sept., Oct., Nov and Dec. 2022 Plaintiff had to consistently produce a series of demands outlined above, most significant, the pursuit of EAI for their discovery responses to include a full and complete copy of the 2012 eBay sales receipt for the 1972 oil painting. I also wanted to know he location of the red pencil signature on stretcher bar. In summary Plaintiff's delay in producing reports was due to the excessive amount of work that I had to produce and re check in

addition to the daily problems intentionally set forth by Defendants to BLOCK and DETER the production of my expert witness reports. Plaintiff also notes that I am suffering from IIED.

Despite my current symptoms and the ongoing inflictions by Defendants, I kept up with my case and produced consistent case filings for months, albeit some minor but not major mistakes.

(2) the importance of the testimony of the precluded witness.

Pro se Plaintiff's Second Amended Complaint has been granted however due to Plaintiff's limited of legal acumen, discovery reopen Fact discovery as not granted to to include any relevant documents, testimony permitting my expert witness reports to support Plaintiff's recently granted claims for IIED, Tort and Fraud which both expert witness can support.

(3) the prejudice suffered by the opposing party as a result of having to prepare to meet the new testimony;

Plaintiff produced the Dr. Scelsa's report on Feb. 16, 2023 and Ms. Skluzacek's report on Feb. 21, 2023 which is before the March 1, 2023 deadline. Defendants, particularly WorthPoint has repeatedly requested extensions from the Court to prolong fact discovery etc. WorthPoint if they wanted to depose my expert witnesses. could have asked for an extension. Defendants chose not to do so. Plaintiff did request, repeatedly for an extension for discovery to be reopened in ECF 361, 364, 367 and 375 , as noted on page 7 of Judge Cave's Order in ECF 509

(4) the possibility of a continuance.

Plaintiff wrote to the Court numerous times noting above before the beginning of Summary Judgement in order to avoid a continuance. Plaintiff feels it would be prejudicial to the Plaintiff not to include my expert witnesses reports since I was not allowed to reopen discovery. Without my experts. Plaintiff will be limited in proving my new claims in my Second Amend Complaint. **1 Plaintiff's Response to Plaintiff's explanation for my delays on Page 11 of Judge Cave's Opinion and Order)**

First, Plaintiff brought up the Feb. 15, 2022 settlement letter as an example of Plaintiff willingness to comply with Defendants demands. Both Defendants in turn falsely wrote to the Court informing Judge Cave that I stating I did not write a monetary amount. I agreed to the terms of writing a settlement with a monetary request. Why would I write a settlement letter without the amount? For the record, to write a proper and well informed settlement letter, I had a paid consultation with the Lead Counsel of Volunteer Lawyers for the Arts who informed me what needed to be stated in the letter-a case summary, case examples, the laws related to the

206 03/01/2022 ORDER terminating 204 Letter Motion for Conference re: 204 FIRST LETTER MOTION for Conference Letter Motion for Pre-Conference re: Plaintiff's Failure to comply with Court Order to Tender a Settlement Demand addressed to Magistrate Judge Sarah L. Cave from Jana Farmer dated 2/28/2022. At the February 1, 2022 Telephone Conference, the Court directed Plaintiff Annamarie Trombetta to serve on Defendants a confidential settlement demand by February 15, 2022. (ECF Nos. 195, 197). Ms. Trombetta has not complied with this Order. The Court extends to Ms. Trombetta one final extension, until March 8, 2022, to convey to Defendants her monetary settlement demand. Failure to comply with this Order may result in the imposition of sanctions. By March 15, 2022, Defendants shall file an updated letter stating whether they would like the Court to conduct a settlement conference. The Clerk of Court is respectfully directed to mail a

infringements . Plaintiff did all this work, spent time and money and the Defendants in turn wrote a letter falsely asserting Plaintiff did not comply. Inserted above is Judge Cave's response. stating : I did not comply, I had to write another letter or it may result in imposed sanctions. Pro Se Plaintiff is a sole proprietor and self employed. I earnestly wrote my letter to comply with Defendants in order to resolve this lawsuit. I respectfully inform the Court, one objective for my lawsuit is to impose Permanent Injunctive Relief to prohibit Defendants from ever using my name/ identity etc again. The loss of time, money and career opportunities to legally set boundaries is now detrimental to my personal and professional well being.

At the bottom of page 11 of ECF 509 Judge Cave kindly concedes that from Feb. to Sept. 2022, Defendants made it difficult for me to focus on my expert discovery reports. I need to make the Court aware that the difficulty increased exponentially from Sept. to Dec 2022.

Defendants made repeated requests to the Court to increase the stress and demands imposed upon Plaintiff. Judge Cave notes that my expert reports were not signed until Feb.2023. I have detailed all the months from August 30th when Plaintiff was improperly served to the end of Jan. 23 after my doctor visit. Plaintiff reiterates on Feb. 2, 2022 I immediately wrote and filed my Second Amended Complaint. The honest mistake Plaintiff made by re writing and editing my Second Amended Complaint filed on Feb 8th and 9th 2023 in ECF 368 and ECF 369 delayed Plaintiff calling back my expert witnesses. I wanted to file my SAC as soon as possible.

At the bottom of page 13 of ECF 509 Judge Cave noted again that Plaintiff did not respond to Defendants. I affirm again at the Zoom meetings in Oct.7th and the Meet and Confer on Oct. 19th and again on the Nov.23, 2022 Conference call I did mention my expert witnesses. Plaintiff did check to make sure my expert witnesses met the standard and all three did. I note that two potential expert witnesses named were removed after Plaintiff reviewed the terms of Rule 26(a) (2) with all five of my potential experts. This is the first time I had to do this.

must make an expert disclosure . . . in the form of a written report prepared and signed by each expert and which contains the following information: a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary or of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

Plaintiff reiterates I have annexed in EX.13 and #15 for Dr. Scelsa exhibits that confirm all the requirements need to qualify as an expert witness. In like fashion I have annexed Gayle Skluzacek's online resume' as an NYU adjunct professor. EXHIBIT #15.

2 Plaintiff's Response to the Importance of testimony of Dr. Scelsa and Ms Skluzacke. on Page 14 and 15 of Judge Cave's Opinion and Order)

Plaintiff chose Dr. Scelsa as a witness due to his involvement in my solo exhibit in 2015 at The Italian American Museum. Secondly, the false 1972 oil painting post was linked to the Italian American Museum which is how Dr. Scelsa became aware of this false link. Dr. Scelsa and the Museum are indirectly effected by the Defendants actions as well. Additionally,

Dr. Scelsa has been offering mental counseling to the Plaintiff as my schedule will allow due to the demands of this case. It is a great convenience and his support and guidance are a true blessing during this tumultuous time during the unending legal demands. Dr. Scelsa has experience and testified in Court. He has written books, lectured and taken part in Pod Casts etc.

Ms. Skluzacek has given prior testimony on my behalf, when I was seriously injured in the Staten Island ferry crash in 2003. In 2022, she sent me a letter about my file for trial and was delighted to learn I have respectively recovered to still be painting and exhibiting. She was upset to learn of this case and the unfortunate circumstances this caused my career. Ms. Skluzacek agreed to be involved in my case due to the moral imperative of a signed oil painting I did not pain. Judge Cave did state the second Patterson factor weighs in favor of the Plaintiff.

3 Plaintiff's Response to Prejudice and Possibility of Continuence on Page 15 and 16 of Judge Cave's Opinion and Order)

Plaintiff notes again to the Honorable Judge Swain, Plaintiff was **unaware** that Plaintiff was required to ask permission of the Court to reopen discovery. Plaintiff's Second Amended Complaint was granted on Feb. 2, 2023 in ECF 366. Defendants 'Answer to Plaintiff SAC was filed on Feb 16, 2022 in ECF 371. WorthPoint and ECF 372-Estate Auctions Inc. In ECF 509 Judge Cave's Opinion and Order states : Noting that Ms. Trombetta did not serve Dr. Scelsa and Ms. Skluzacek's reports until after the MSJs and Daubert Motions were filed, WorthPoint argues that it has been prejudiced. (ECF No. 462 at 4). WorthPoint adds that reopening discovery at this stage—after all discovery has been closed since March 2023—would result in additional litigation costs and “unnecessary and irrelevant discovery.” Plaintiff affirms I served Defendants my report on Feb. 16, 2023 and Feb. 21, 2023 I did so before the March 1, 2023 deadline for expert discovery and this was enough time for Defendants to review the reports, decide to extend or if they wished to depose my experts.

EXHIBIT #17 Plaintiff email to Defendants upon production of Skluzacek report.

Plaintiff notes it is I who have been prejudiced as a Pro Se Plaintiff. When WorthPoint was

added as a Defendant to this litigation Plaintiff there were two attorneys. One year later, WorthPoint's attorney Arnold Lutzker withdrew as counsel. WorthPoint hired a team of three attorneys. Since 2021, I have had to respond to four different attorneys in this litigation. Plaintiff has to email in addition to there being two separate Defendants four attorneys. Also, each Defendant requires a separate response, ergo I am double the amount of work. Plaintiff notes the cases of Paterson vs Balsamico (hostile work environment) and Lab Crafters vs Flow Safe Inc. in which the Plaintiff Lab Crafters alleges a (breach of contract) and the legal standard. Once again, Plaintiff has no history of painting in oils as a little child which was publicly defined in my biography. Defendant admitted they did not read my biography. WorthPoint admitted they never saw the 1972 oil painting. Despite Defendants admissions, each Defendant rejected and failed to make a counter offer to my May 16, 2023 settlement letter. Mr. Duff's response is in my May 31, 2023 filing in ECF 489. Annexed in **EXHIBIT #18 ECF 489 page 2 Demands for Payment from Plaintiff by Mr. Duff**. Plaintiff had no association with either eBay based company. Plaintiff had no choice, no control and no way of removing the false internet posing other than being "FORCED" to contact each Defendants. Defendants reckless disregard to accuracy attribute their painting has gauged out eight years of my life I will never get back. It has caused Plaintiff to incur years of problems. In all this time Defendants did not identify who painted the 1972 oil painting I ask the Court to consider these facts in weighting the four factors in the Patterson Standard. I remind the Court Plaintiff's ordeal began in 2015, eight years ago. at this time of year. The denial of Plaintiff's expert witnesses report and experts testimony, should there be a need for a trial, would be most prejudicial as the actions, attitude and antagonistic treatment Plaintiff has been subjected. by Defendants has caused emotional distress and a depreciation of my artwork. Both expert witnesses will testify to Plaintiff's claims.

CONCLUSION

Plaintiff hereby requests the Honorable Chief Judge Swain 's reconsideration of the inclusion of my expert witness reports and my expert witnesses giving testimony at a potential trial. Therefore, in considering such a motion to reconsider or correct the appropriate inquiry is not whether a Plaintiff is likely to prevail, but whether he is entitled to offer evidence to support my claims.

Annamarie Trombetta
175 East 96th Street (12 R)
New York. New York 10128

Pro Se Plaintiff

Respectfully Submitted ,
——Electronic Signature ——

/s/ Annamarie Trombetta July 6, 2023

Annamarie Trombetta Pro Se Plaintiff

EXHIBITS FOR MOTION TO RECONSIDER/CORRECT ECF 509

EXHIBIT # 1 Email communication with Gayle Skluzacek RE expert witness reports

EXHIBIT # 2 Email communication with Dr. Josphe Scelsa RE expert witness reports

EXHIBIT # 3A Plaintiff 's Dec. 8, 2022 Letter to Court Requesting Extension in ECF 330
3B Plaintiff 's Dec. 16, 2022 Letter to Court Requesting Extension in ECF 338

EXHIBIT # 4 Plaintiff's Sept 28, 2022 email to Anderson Duff.

EXHIBIT #5 Plaintiff two exhibits "Plaintiff's Illness Begins Dec. 7, 2022 into late Jan. 2023.

EXHIBIT #6 Plaintiff's Nov. 16, 2022 Email to Settlement Lawyer and Dr.Scelsa

EXHIBIT #7 WorthPoint's List of Rule 37 Demands due Oct.6, 2020.

EXHIBIT # 8 A Sept. 26, 2022 WorthPoint's Attorneys emails with Dangerous Warnings

EXHIBIT #8 B SAME EXHIBITS IN 493 filed on June 1, 2023

EXHIBIT # 9 Oct 28, 2022 Proof of sending electronic Raw email dated Feb. 20, 2022 to Will Seippel in a digital PDF formatted file to Defendants.

EXHIBIT # 10 Plaintiff Nov. 8, 2022 letter to the Court correction of Attorneys False and Incorrect Bate Stamp Discovery in ECF 310

EXHIBIT #11 Nov, 23 2022 Judge Cave's Order Feb. 20, 2016 electronic email-WorthPoint

EXHIBIT #12 Nov. 23, 2022 email to Dr. Scelsa—failed settlement talks and expert report

EXHIBIT # 13 NYLAG-email on Expert Witness Reports due before March 1, 2023.

EXHIBIT # 14 Dr. Scelsa 's award and ceremony for his civic and cultural contributions to the community with Mayor Eric Adams in attendance at the ceremony.

EXHIBIT #15 Gayle Skluzacek NYU Adjunct Professor course curriculum art appraisals.

EXHIBIT #16 July 2023 Letter in Support by Dr. Scelsa for Plaintiff's Motion to Change or Reconsider expert witness reports

EXHIBIT #17A Plaintiff email to Defendants upon Dr. Scelsa 's report Feb. 16, 2022
17B Plaintiff email to Defendants upon Gayle Skluzacek report Feb. 22,2023.

EXHIBIT #18 ECF 489 page 2 Excerpt from Attorney Anderson Duff Regarding Payment

In The United States District Court For Southern District of New York

Annamarie Trombetta,

vs.

Norb Novocin, Marie Novocin,
Estate Auctions Inc.

and

WorthPoint Corporation

Defendants

CERTIFICATE OF SERVICE

I certify that on July 6, 2023, a true and correct copy of the foregoing Motion document was served upon the parties of record via the Court's CM/ECF system and directly to all attorneys listed below to include Adam Bialek, Jana Farmer and John Cahill attorneys for WorthPoint Corporation and attorney Anderson Duff representing Marie and Norb Novocin and Estate Auctions Inc.

Dated: New York, New York July 6, 2023

Submitted by

Annamarie Trombetta
175 East 96th Street (12 R)
New York. New York 10128

——Electronic Signature ——

/s/ Annamarie Trombetta July 6, 2023

Pro Se Plaintiff

Annamarie Trombetta Pro Se Plaintiff

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